

AMENDED IN ASSEMBLY APRIL 18, 2013

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 71

Introduced by Assembly Members V. Manuel Pérez and Hueso

January 10, 2013

An act to add Article 2 (commencing with Section 2940) to Chapter 13 of Division 3 of the Fish and Game Code, relating to the Salton Sea.

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as amended, V. Manuel Pérez. Salton Sea restoration.

~~(1) Existing~~

Existing law, until January 1, 2013, established the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea.

This bill would require the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. This bill would require the secretary, in consultation and coordination with the authority, to form a technical advisory group, as prescribed, to provide guidance about evaluating, developing, or proposing future restoration or economic development activities. *This bill would authorize the authority to lead a restoration funding and feasibility study, in consultation with the agency and the technical advisory group, as prescribed.* This bill would also require the secretary to seek input from the authority with regard to specified components of restoration of the Salton Sea. By imposing duties on a local joint powers authority, the bill would impose a state-mandated local program.

~~(2) Existing law establishes the Salton Sea Restoration Fund and requires the fund to be administered by the Director of Fish and Wildlife. Existing law requires the money deposited in the fund to be expended, upon appropriation by the Legislature, for various purposes relating to the restoration of the Salton Sea.~~

~~This bill would authorize the authority to lead a restoration funding and feasibility study, in consultation with the agency and the technical advisory group, as prescribed. If the authority undertakes the study, this bill would require the Department of Fish and Wildlife to enter into a funding agreement for an amount of no less than \$2,000,000 from the Salton Sea Restoration Fund for the purposes of this study.~~

~~(3) The~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. Article 2 (commencing with Section 2940) is
2 added to Chapter 13 of Division 3 of the Fish and Game Code, to
3 read:

4
5 Article 2. Salton Sea Restoration

6
7 2940. The Legislature finds and declares all of the following:

8 (a) The Salton Sea is California's largest inland water body with
9 beneficial uses that include fisheries and wildlife habitat and
10 preservation of endangered species, and is a repository for
11 agricultural drainage.

12 (b) The Salton Sea ecosystem is a critical link on the
13 international Pacific Flyway and supports over 400 species of
14 birds.

15 (c) The Salton Sea is threatened by increasing salinity and
16 reduced inflows. These changes increasingly threaten the
17 unparalleled wildlife resources at the sea, as well as air quality in
18 the region.

1 (d) In cooperation with local governments, nonprofit
2 organizations, private businesses, and the public, the Salton Sea
3 Authority can help protect wildlife habitats and endangered species,
4 improve water and air quality, and enhance recreational
5 opportunities in the region.

6 (e) In restoring the Salton Sea, it is the intent of the Legislature
7 to do all of the following:

8 (1) Permanently protect fish and wildlife that are dependent on
9 the Salton Sea ecosystem.

10 (2) Restore the long-term stable aquatic and shoreline habitat
11 for fish and wildlife that depend on the Salton Sea.

12 (3) Mitigate air quality impacts from restoration projects using
13 the best available technology or best available control measures,
14 as determined by the South Coast Air Quality Management District
15 and the Imperial County Air Pollution Control District.

16 (4) Protect water quality.

17 (5) Maintain the Salton Sea as a vital link along the Pacific
18 Flyway.

19 (6) Preserve local tribal heritage and cultural values associated
20 with the Salton Sea.

21 (7) Minimize noxious odors and other water and air quality
22 problems.

23 (8) Coordinate with local, state, and federal agencies that are
24 responsible for air quality, endangered species, and other
25 environmental mitigation implementation requirements of the
26 Quantification Settlement Agreement.

27 (9) Enhance economic development opportunities that will
28 provide sustainable financial improvements benefiting the local
29 environment and the economic quality of life for communities
30 around the Salton Sea.

31 2941. Unless the context requires otherwise, the definitions
32 set forth in this section govern the construction of this article.

33 (a) “Agency” means the Natural Resources Agency.

34 (b) “Habitat mosaics” means two or more proximate habitat
35 types, such as saltwater shoreline abutting riverine deltas and
36 irrigated farmland.

37 (c) “Quantification Settlement Agreement” has the same
38 meaning as defined in subdivision (a) of Section 1 of Chapter 617
39 of the Statutes of 2002.

(d) “Salton Sea Authority” or “authority” means the joint powers authority comprised of the County of Imperial, the County of Riverside, the Imperial Irrigation District, the Coachella Valley Water District, and the Torres Martinez Desert Cahuilla Indian Tribe.

(e) “Secretary” means the Secretary of the Natural Resources Agency.

(f) “Technical advisory group” means the technical advisory group formed pursuant to subdivision (b) of Section 2942.

(g) “Vector management” means services that eliminate or reduce the risk of illness caused by any organism transporting a pathogen.

2942. (a) (1) The secretary, in consultation and coordination with the authority, shall lead the Salton Sea restoration efforts that shall include all of the following:

(A) Early start habitat demonstration projects.

(B) Biological investigations relating to the restoration of the Salton Sea.

(C) Investigations of water quality, sedimentation, and inflows relating to the restoration of the Salton Sea.

(D) Air quality investigations, in consultation and coordination with local and regional air quality agencies, relating to the restoration of the Salton Sea.

(E) Geotechnical investigations relating to the restoration of the Salton Sea.

(F) Financial assistance grant programs to support restoration activities of local stakeholders.

(2) The secretary and the Legislature shall maintain full authority and responsibility for any state obligation under the Quantification Settlement Agreement. The secretary and the Legislature shall have final approval for any proposed restoration plan.

(3) (A) To the extent that funding is appropriated to the department for Salton Sea restoration activities, the Department of Water Resources, in coordination and under agreement with the department, may undertake restoration efforts identified in this subdivision.

(B) The department and the Department of Water Resources shall do all of the following for the Salton Sea Species Conservation Habitat Project:

1 (i) Immediately make available relevant information relating to
2 the factors that influence the cost and size of the alternatives
3 discussed in the environmental impact report or environmental
4 impact statement for the species habitat conservation program.

5 (ii) Release all available detail on a final project design
6 immediately, or upon final determination of a least environmentally
7 damaging preferred alternative by the United States Army Corps
8 of Engineers. Details of a final project design shall include location,
9 configuration, size, and cost.

10 (iii) Immediately make available project evaluation protocols
11 that include the following principles of adaptive management:

12 (I) Goals and objectives of the project.

13 (II) The project design and an operations plan.

14 (III) A monitoring plan that will include metrics that identify
15 benefits to the species.

16 (IV) A performance evaluation based on species population
17 identified through monitoring.

18 (V) A decisionmaking framework to evaluate project
19 performance and guide operations and management changes.

20 (b) (1) The secretary, in consultation and coordination with the
21 authority, shall form a technical advisory group composed pursuant
22 to paragraph (2) to provide guidance to the secretary and the
23 authority in evaluating, developing, or proposing future restoration
24 of or economic development activities restoring the, Salton Sea.

25 (2) The technical advisory group shall be composed as follows:

26 (A) The secretary, or his or her designee.

27 (B) The secretary may include a representative from any of the
28 following:

29 (i) The department.

30 (ii) The Department of Water Resources.

31 (iii) The State Air Resources Board.

32 (iv) The State Energy Resources Conservation and Development
33 Commission.

34 (C) The secretary shall invite the following entities to
35 participate:

36 (i) Local government agencies and tribal governments with
37 geographic, economic, environmental health, or cultural interest
38 in the Salton Sea.

39 (ii) Nongovernmental organizations with environmental interests
40 relating to the Salton Sea.

1 (iii) The United States Geological Survey Salton Sea Science
2 Office.

3 (iv) Research institutions focused on research and development
4 projects in the Salton Sea region.

5 (c) (1) The authority may lead a restoration funding and
6 feasibility study, in consultation with the agency and the technical
7 advisory group, to do the following:

8 (A) Investigate access and utility agreements that may contribute
9 to the future funding of restoration activities at the Salton Sea.

10 (B) Analyze all feasible funding sources for restoration program
11 components and activities.

12 (C) Analyze economic development opportunities, including,
13 but not limited to, renewable energy, biofuels, mineral
14 development, and algae production for the purposes of identifying
15 new revenue sources for the Salton Sea restoration efforts.

16 (D) Identify state procurement and royalty sharing opportunities.

17 (E) Review existing long-term plans for restoration of the Salton
18 Sea and recommend to the technical advisory group and the
19 secretary changes to existing restoration plans. In any review
20 pursuant to this subparagraph, the authority shall consider the
21 impacts of the restoration plan on air quality, fish and wildlife
22 habitat, water quality, and the technical and financial feasibility
23 of the restoration plan and shall consider the impacts on other
24 agencies responsible for air quality, endangered species, and other
25 environmental mitigation requirements for implementation of the
26 Quantification Settlement Agreement.

27 (2) No evaluation, study, review, or other activity pursuant to
28 this article shall delay the planning and implementation of ongoing
29 and planned mitigation projects, including, but not limited to, the
30 Salton Sea Species Conservation Habitat Project or other mitigation
31 measures pursuant to existing state and federal programs and
32 agreements, including, but not limited to, those programs and
33 agreements undertaken pursuant to the Quantification Settlement
34 Agreement.

35 ~~(3) (A) If the authority undertakes a study pursuant to paragraph~~
36 ~~(1), the department shall enter into a funding agreement with the~~
37 ~~authority for an amount of no less than two million dollars~~
38 ~~(\$2,000,000) from the Salton Sea Restoration Fund for the purposes~~
39 ~~of producing the restoration funding and feasibility review study.~~
40 ~~Provided that funding is available to the authority on or before~~

1 ~~July 1, 2014, the authority shall complete the study undertaken~~
2 ~~pursuant to this subdivision and present the study to the Governor~~
3 ~~and the Legislature on or before June 30, 2015.~~

4 ~~(B) A report required to be submitted pursuant to this paragraph~~
5 ~~shall be submitted in compliance with Section 9795 of the~~
6 ~~Government Code.~~

7 2943. For the purposes of considering local, publicly derived
8 input concerning habitat objectives and actions, types and levels
9 of public access, and integration of air quality management and
10 habitat restoration, the secretary shall seek input from the authority
11 with regard to the following components of restoration of the Salton
12 Sea:

13 (a) Design opportunities and constraints, including the
14 integration of the habitat, public access, and air quality
15 management objectives.

16 (b) Public access and recreational components.

17 (c) Opportunities for economic development.

18 (d) Habitat mosaics and location.

19 (e) Vector management and predator control.

20 (f) Feasible financial resources to fund all recommended
21 restoration program components.

22 2945. (a) Nothing in this article interferes with or prevents the
23 exercise of authority by a public agency to carry out its programs,
24 projects, or responsibilities.

25 (b) Nothing in this article affects requirements imposed under
26 any other provision of law.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district are the result of a program for which legislative authority
31 was requested by that local agency or school district, within the
32 meaning of Section 17556 of the Government Code and Section
33 6 of Article XIII B of the California Constitution.